

**AMERICAN CONFERENCE INSTITUTE
LITIGATING DISABILITY CLAIMS CONFERENCE
MARCH 24 and 25, 2003**

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PRACTICAL DISABILITY CLAIMS MANAGEMENT TECHNIQUES

Principles of Insurance: The Promise

- ❖ Risk transference occurs when the insured or policyholder pays premium as an individual or group to an insurer. Premiums are paid by the insured and or policyholder and accepted by the insurer with the promise that the insurance company will cover the risk of a loss due to illness, injury and or death.
- ❖ At the time the insurer accepts that risk, and issues a policy, it has agreed to accept losses that may occur to its insured. The acceptance of premium guarantees that protection in accordance with the provisions of the policy.
- ❖ It is the insurance company's duty to thoroughly evaluate the risk at the time of application. Insurance companies will accept good and poor risks, but it is expected that it has thoroughly evaluated the potential risk factors.
- ❖ The insurer accepts the risk based on its evaluation of the information that is presented by the applicant, insured and or policyholder.
- ❖ The relationship between the insurer and the insured is based on the promise and trust that the insurer will conserve and protect the human life value of its insured and family.



Fundamentals of Disability Claims Practices: Guiding Principles

Code of Conduct:

- ❖ Act with integrity and high ethical standards.
- ❖ Claims must be handled in accordance with policy provisions and the law.
- ❖ Treat the insured with respect.
- ❖ The claims evaluation process requires that individuals be reliable, dependable and trustworthy.
- ❖ Promises that are made must be honored.
- ❖ Communication must be timely, consistent, and honest.
- ❖ Decisions must be based on factual information, with good judgment and a common sense approach.

Claim Philosophy

- ❖ Develop a reasonable and equitable claim philosophy.
- ❖ Establish procedures and guidelines to process claims efficiently and accurately.
- ❖ Communicate clear and concise claim processing instructions to insureds and or policyholders.
- ❖ Management must exercise adequate control to ensure that the claim philosophy is administered consistently and fairly by all claims personnel.

Claim Department: Operating Effectiveness

- ❖ The function of claim department is the means by which an insurance company fulfills its contractual promises to provide benefits and financial protection in the event it's insured incurs a covered loss.

- ❖ The claim administration process requires that the company perform the following investigative action steps: 1) gather pertinent facts relating to the insured's claim; 2) evaluate the information and compare it to the policy provisions; 3) determine if benefits are compensable to the insured.
- ❖ The objective is to pay all valid and appropriate claims promptly, courteously and in accordance with policy provisions.
- ❖ Another function and objective is to gather and accumulate claim information for accounting, statistical, analytical, and research purposes. This information is critical for pricing, financial management and control, as well as long term strategic business planning.
- ❖ The performance and conduct of the claim organization does have a direct impact on the insurance company's reputation and financial results, and is vital to customer satisfaction, persistency, and good will.

Claim Administration Process: Initial Claim Evaluation

- ❖ **Notice of Claim** is the event that triggers the initial contact and claim evaluation process. The initial telephone contact is critical in gathering preliminary information, but more importantly developing a rapport, explaining the process and providing prompt customer service.
- ❖ The claim specialist will verify if the insured's policy is in force, and the type of coverage the insured has. The Proof of Loss claim forms are typically sent to the insured immediately following the notice of claim
- ❖ The initial contact typically provides the insurance company with pertinent information concerning the nature of impairment, occupation, date of loss, and name of the treating physician.
- ❖ The insured may also provide a signed authorization to the company prior to completing the initial claim forms and or Proof of Loss. Once the claim specialist receives the signed authorization, the gathering of preliminary information should commence.
- ❖ **Proof of Loss** typically consists of the initial claim forms, which include the Insured's Statement of Claim, Attending Physician's Statement and the Employer/Occupational information. Once proof of loss has been provided to the company, a prompt decision must be made if it has been determined that the claim is valid, and the loss is covered under the policy.

- ❖ If there is no reasonable basis to question or challenge the validity of the proof of loss, the claim should be paid in accordance with the provisions of the policy.
- ❖ Notwithstanding the validity of the claim, it is reasonable for the company to conduct an investigation of pertinent information with respect to the insured's medical condition, occupation, economic loss, and any other information that is pertinent to the insured's claim. The claim file must document the need for information and the basis for the investigation. There must be a reasonable need to conduct an investigation.
- ❖ The claim evaluation process must be reasonable and driven by the facts of the claim.
- ❖ Claim Specialists must be clear and concise with the insured concerning any additional information that is needed, and explain why the information is needed.
- ❖ The initial claim decision must be made promptly, based on pertinent facts and policy provisions, and not on speculation, unreasonable policy interpretations and or business objectives. The Claim Specialist speaks for the company and will set the tone and direction of the claim.
- ❖ If the company determines that the initial proof of loss is not sufficient, the Claim Specialist must explain in detail the basis for the decision. The Claim Specialist should provide instructions as to what information is needed, in accordance with the policy provisions, in order for the insured to perfect the claim.
- ❖ The importance of ongoing communication between the insured and the claim department will establish the nature of rapport and the expectations of the claim evaluation process.

Claim Investigation: Thorough and Objective

- ❖ The Claim Specialist plays a significant role in the course and direction of the claim investigation. The Claim Specialist is charged with gathering information and assembling the appropriate resources needed to assist in the claim investigation process.
- ❖ The Claim Specialist must remain objective throughout the claim process. The presentation concerning the nature of the investigation must be reasonable and aimed at verifying information.

- ❖ The focus of the investigation is to verify the facts and representations presented during the course of the claim. The focus should not be finding ways or creating issues to refute the claim. The investigation must be driven by the pertinent facts of the claim.
- ❖ Depending on the nature of the investigation, claims personnel and the insured need to work together. The claim investigation need not be adversarial.
- ❖ The company has the right and duty to conduct a fair and thorough claim investigation. It is the responsibility of the claims personnel to communicate the need for specific information, but more importantly, the insured understands that need. The insured's cooperation will no doubt be impacted by the company's ability to explain its need for pertinent information in a clear, concise, direct and respectful manner.
- ❖ The claim investigation should not be perceived as overly intrusive and or threatening. The insured has a duty to cooperate during the investigation process. It is in the insured's best interest to cooperate and present all of the pertinent information necessary to perfect the claim.
- ❖ The insured must understand and be cognizant of the fact that his/her right to privacy may be waived to the extent that the company might need personal and confidential information to evaluate and verify pertinent facts. The insured's concern over the disclosure of personal and confidential information is real, and the claims personnel involved in the claim investigation process must be sensitive to this concern.
 1. The need for personal and confidential information must be clear and concise. The information requested must be reasonable and have a direct relationship to the claim decision making process.
 2. The information should not be disclosed to a third party without the insured's consent.
- ❖ The claim investigation methodology must be professional, objective, reasonable, ethical, and pertinent to the claim. A thorough investigation consists of gathering information, but more importantly it is analyzing the information, and determining what the information means in the context of the claim.
- ❖ **Essentials of a Good Investigation: There must be procedures and guidelines for conducting an objective, dependable and thorough investigation.**
 - 1. Reporting of factual information and only factual information.

- 2. Careful analysis of information and identification of what is needed to address the questions, concerns, and or issues of the claim.
- 3. The investigation must be focused on the identified issues, and conducted through sources with direct knowledge of pertinent information. All investigations must be conducted with the intent of perfecting the claim.
- 4. The investigation must be objective, and the results of the investigation must be reported in an impartial manner.
- 5. All reporting and communication of the investigation must be clear and complete.

Complex Claims: The Gray Area

- ❖ One of the primary reasons claims become complex and “gray” is due to poor communication, which results in creating a mindset of suspicion and distrust.
- ❖ The Claim Specialist has a poor understanding of the information, and does not have adequate knowledge to ask pertinent questions.
- ❖ The claim investigation is not well planned or consistent with the facts presented. The claim evaluation methodology is not readily understood by the Claim Specialist.
- ❖ Not willing to deal with the difficult or confused insured creates unnecessary delays and an adversarial relationship.
- ❖ Complex Claims require that the Claim Specialists increase their communication, but more importantly avoid creating barriers.
- ❖ It is critical that all claim personnel involved in the claim evaluation process fully understand the issues, and remain objective and flexible.
- ❖ The insured needs to be made aware of and have an understanding of the issues, which cause the need for further investigation. The Claim Specialist must avoid non-specific or generalized statements such as, “We have not completed our investigation of your claim”.
- ❖ It is important for the Claim Specialist to give the insured the benefit of doubt during the investigation process. This will ensure a level of trust and cooperation. Casting doubt on an insured’s claim without the benefit of a thorough investigation is not fair to the insured.

Claim Investigation Methodology: Factually Based Decisions

- ❖ The Claim Specialist, as well as other claim personnel involved in the investigation and decision-making process must make determinations based on reasonable and factual information pertinent to the insured's claim. The need for the information derived from the investigation must be clearly documented in the claim file.
- ❖ **The Claim Evaluation Methodology** is essential to the decision-making process, and to ensure that the company is making the correct and factually based determination concerning the claim.
 - 1. The collection of data and information is part of the early intervention process. The Claim Specialist is focused on documenting and registering pertinent events, circumstances, and representations.
 - 2. The Claim Specialist will work with other specialized resources concerning the analysis and organization of the information received. This process is intended to segment the information, and develop a plan that will facilitate the investigation.
 - 3. The claim investigation is intended to provide clarity and reasoning from generalized information to the particular issues identified by the claims personnel. The verification process must be tested and refined prior to any decision.
 - 4. The derived information developed and documented is assessed objectively and thoroughly. The Claim Specialist and other claims personnel will determine what the implications are based on the facts and compliance with policy provisions. Depending on the factual basis of the information, strategies will be discussed and formalized.
 - 5. The Claim Specialist will be charged with delivering the response to the insured. The response to the insured must provide the fundamental basis for the company's decision.
- ❖ Prior to reaching a final determination the Claim Specialist needs to explain the basis for the claim decision. It is critical that Claim Specialist provide the insured an opportunity to ask questions and provide additional information. The Claim Specialist should not rush to judgment. Each and every claim decision must be based on sound reasoning and supported by information that leads to a logical deduction.

Avoiding Potential Pitfalls of Claim Management: Five Touchstones of Good Faith Claims Handling

- ❖ 1. Provide prompt communication; be courteous; respectful; fair; and reasonable.
- ❖ 2. Conduct a prompt, objective and thorough investigation pertinent to claim, and focused on effectuating a prompt settlement of the claim.
- ❖ 3. Insured's must be treated equally and without consideration of issues other than those required by the provisions of their policy. Avoid potential conflict of interests.
- ❖ 4. Establish procedures and guidelines to prevent any misrepresentation of pertinent facts and or policy provisions. Avoid taking unfair advantage of the insured by reason of greater knowledge.
- ❖ 5. Maintain standards and practices that are consistent and equitable. Avoid delays and redundant requests. Claims personnel must be adequately trained, knowledgeable, honest, trustworthy and professional in the administration of claims.